

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554**

<b>IN THE MATTER OF:</b>	)	
	)	
<b>Communications Assistance for Law</b>	)	<b>ET Docket No. 04-295</b>
<b>Enforcement Act and Broadband Access</b>	)	
<b>And Services</b>	)	<b>RM-10865</b>

**COMMENTS SUBMITTED BY  
THE MISSOURI RESEARCH AND EDUCATION NETWORK  
IN RESPONSE TO THE  
NOTICE OF PROPOSED RULEMAKING AND ORDER**

**I. Introduction**

The Missouri Research and Education Network (MOREnet) wishes to thank the Federal Communications Commission (FCC or Commission) for its ongoing interest in and support of public comments in response to the Communications Assistance for Law Enforcement Act and Broadband Access (CALEA).

**II. Background**

MOREnet links Missouri to a world of knowledge through a statewide education network. Schools, public libraries, academic institutions and state agencies linked to the network have access to a secure broadband Internet connection, staff training, technical support and electronic resources. An important feature of the Internet connectivity provided by MOREnet is the high-speed intrastate network consisting of six major circuits connecting several major population centers in the state. MOREnet manages nearly 1,100 local connections statewide. In sum, MOREnet's services reach 850,000

students and 86,000 faculty and staff in 513 school districts, as well as 358 public library buildings serving 5.1 million Missourians.

### III. CALEA's Effect On State Networks

CALEA was passed in 1994 and is codified at 47 U.S.C. § 1001 *et seq.*

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original purpose of CALEA was to preserve law enforcement's ability to conduct electronic surveillance in the digital age. MOREnet agrees with the original intent and purpose of CALEA. In the burgeoning age of technology, law enforcement must re-evaluate their commonly accepted means of surveillance to include the rapidly growing and societal acceptance of electronic means of research and communication.

However, CALEA was originally intended to cover telephone networks, but the FCC has proposed to extend CALEA to broadband Internet access and Voice Over Internet Protocol (VoIP). This, in effect, means that CALEA requires a network to provide technical assistance capabilities and the capacity to support multiple wiretaps. Beyond obvious surveillance measures such as wiretapping, CALEA requires, *inter alia*, that law enforcement be able to intercept wire and electronic communication and access call-identifying information. Further, Section 105 of CALEA and FCC Implementing Rules require "carriers" to maintain a security office, ensuring

the “security and integrity of electronic surveillance, train personnel, and keep records of all surveillance authorizations.” 47 C.F.R. 64.2100 *et seq.*

Key to the discussion and debate about the extension of CALEA is the determination of what entities are actually “carriers” under the goals and purposes of the rule. Generally, under defining language established by the FCC, a carrier is a person or entity engaged in the transmission or switching of wire or electronic communications as a common carrier for hire, including the replacement of a substantial portion of the local telephone exchange (Substantial Replacement Provision or SRP). The FCC interprets SRP to cover facilities-based broadband Internet access and VoIP providers.

The review of the substantial language of CALEA is important because it begs an important question: Should higher education and state education networks be included within the SRP definition under CALEA requirements? The answer is no. MOREnet strongly urges the FCC to order that networks operated by colleges, universities, and research institutions are exempt from CALEA. To not exempt these networks would be irresponsible.

The Missouri Research and Education Network provides Internet access to over 97% of Missouri schools and libraries. In short, our network supports thousands, if not millions, of users per day. To ask that MOREnet monitor and evaluate all network traffic to meet the provisions of CALEA is unrealistic and serves no purpose that can not be met by traditional

subpoena requests. Further, the financial demands placed by the provisions of CALEA could be potentially damaging to the future of MOREnet.

At the absolute minimum, MOREnet's network and information technology components would require a significant and expensive restructuring in order to comply with the provisions of CALEA. MOREnet is funded by the state legislature and customer participation fees. In an era of decreased spending by the state government and extensive demands on the budgets of schools and libraries, MOREnet works diligently and consciously to reduce spending and operate with the most advance technologies at the absolute lowest cost. To require a massive restructure of our equipment within the next 18 months would require a financial hardship that MOREnet and the schools and libraries in the state of Missouri could not support.

Furthermore, CALEA does not support a compelling government interest. Currently, law enforcement may seek a subpoena for records regarding network traffic. MOREnet's policy is to reply to any such subpoena in a timely manner with utmost assistance to the needs of law enforcement. MOREnet makes no objection to the needs of law enforcement in investigating a case; rather it is the wide-spread and non-tailored means by which CALEA approaches these needs that troubles MOREnet. To suggest that higher education and state networks should carry the cost and burden of non-necessary surveillance measures is troubling. Certainly the purposes of CALEA are well-suited to some networks in the private sector. However,

applying those same standards to higher education and state networks serves no purpose but to add costs and demands to networks that work diligently to operate in the most cost-efficient manner. In addition, organizations such as MOREnet exist to provide reliable, secure, and available Internet access to Missouri schools, libraries, and state agencies. MOREnet wishes for the Internet to be used only for legal and commonly accepted uses and therefore, MOREnet's priority is to assist law enforcement officials in any way necessary under current subpoena requirements. MOREnet does not need CALEA to ensure compliance with law enforcement officials.

Applying the standards of CALEA to MOREnet will detract from the ultimate purpose of our network: to provide reliable and secure Internet access to Missouri schools, public libraries, academic institutions, and public agencies. Rather, MOREnet will become consumed with the concerns of the extensive provisions of CALEA. Most importantly, the financial resources of MOREnet will be mandated to the cost of creating a network that complies with CALEA standards. Finally, staff time will be dedicated to monitoring the network to meet CALEA's security standards. Financial resources and staff time are not in excess in this organization. We wish to provide the best service for the lowest cost so that Missouri schools and libraries may benefit to the highest extent. Raising customer fees to generate funds to restructure our network to meet CALEA is preposterous when considering that

MOREnet already cooperates to the full extent with law enforcement whenever needed.

Clearly, the Federal Communications Commission agrees that providing reliable and secure Internet access to school children and library patrons is a task of paramount importance. If not, then the Commission would not support programs such as the National Education Rate.

Obviously, to require state education networks such as MOREnet to comply with the far-reaching provisions of CALEA would thwart the intentions of the Commission. This act is erroneously applied, does not further government interests, and is not narrowly tailored to the best application. MOREnet urges the Commission to clarify that private networks operated by colleges, universities, and state education be exempted from CALEA.

### **Conclusion**

The Missouri Research and Education Network reiterates its appreciation for the support the Commission has shown by allowing public comment on this matter. We stand ready to assist the commission on these and other issues as the program moves forward.

Respectfully submitted,

Network

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